IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA:

CWP.No.1036/2003

Date of Decision :9.5.2007.

Phati Jana Co-operative Agriculture Society.
…Petitioner.

Versus:

State of H.P. and others. …Respondents.

Coram:

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1]

For the petitioner: Mr.Praneet Gupta, Advocate.

For Respondents 1 to 3. Mr.C.B.Singh, Dy.Advocate General.

For Respondent No.4. Mr.Tarlok Chauhan, Advocate.

For Respondent No.5. Mr.Anand Sharma, Advocate.

Sanjay Karol, J (Oral).

The learned counsel for the parties submit that the present writ petition is covered by the decision of this Court rendered in similar matter being CWP.No.1037/2003 titled The Hallan-1 Cooperative Consumer Store Ltd. Vs. State of H.P. and others dated 30th April, 2007. In this view of the

[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

matter, the orders and directions passed in the said Civil Writ Petition are also being passed in the present writ petition in the following terms:

Accordingly the writ petition is allowed. The allotment of fair price shop made in favour of respondent No. 5 is quashed and set aside. The respondents No. 1 to 4 are directed to call the fresh applications from all eligible candidates including the respondent No.5 for allotment of fair price shop at village Patka , P.O.Archhandi, Tehsil and District Kullu and to complete the process within a period of three months from today. To avoid inconvenience to the ration card holders of village Patka, till the process of allotment of fair price shop is completed, the respondent No.5 may be permitted to run the fair price shop. In the eventuality of the shop being not allotted in favour of respondent No.5, the same will be stopped forthwith after the expiry of three months.

Before parting with the judgment, it will be desirable if this Court issues mandatory directions to the respondent Nos. 1 to 4 qua the manner in which the fair price shops are to be allotted in the State for very effective implementation of public distribution system. Accordingly, respondent Nos. 1 to 4 are directed:

i) Respondents No. 1 to 4 should strictly implement Annexures P-3 and P-4 while allotting fair price shops.

ii) The preferences mentioned in Annexures P-3 and P-4 are to be adhered to strictly to shun arbitrariness.

iii) In any eventuality, the Cooperative Societies is not available for running the fair price shop, the H.P.State Civil Supplies Corporation should be permitted to open their retail outlet for the distribution of essential commodities under the public distribution system.

iv) In case neither the Cooperative Societies nor H.P.State Civil Supplies Corporation is available or forthcoming, in that event persons including ex-servicemen, handicapped or unemployed educated youth are to be considered.

v) Proper notice is to be published either in two vernacular newspapers or by any known mode of publication including the affixation of notice at the Panchayat Ghar, Municipal Counsel office and Nagar Panchayat office. In the advertisement, exact location of fair price shop is required to be mentioned.

vi) On the basis of the advertisement/publication, the applications from the categories mentioned in Annexures P-3 and P-4 are to be called, scrutinized by due date as shown in the advertisement and the suitability of the candidates is to be adjudged by the Deputy Commissioner of the concerned District.

vii) The Deputy Commissioners in the State shall maintain the record of the selection for allotment of fair price shops.

viii) The Deputy Commissioners may also evolve system of allotting marks to adjudge the suitability of the candidates and therein the preference is to be given to the most educated candidates available.

There shall be no order as to costs.

(Sanjay Karol),
Judge.

May 9, 2007(R)